

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Marjorie Eversole,

Plaintiff,

v.

Abubakar Atiq Durrani, *et al.*,

Defendants.

Case No. 1:18cv856

Judge Michael R. Barrett

OPINION & ORDER

This matter is before the Court upon the Motion for Judgment on the Pleadings filed by Defendants, Abubakar Atiq Durrani, M.D. (“Durrani”) and Center for Advanced Spine Technologies, Inc. (“CAST”). (Doc. 55). Plaintiff has filed a Response (Doc. 58). Defendants did not file a reply.

The standard of review for a Rule 12(c) motion is the same as for a motion under Rule 12(b)(6) for failure to state a claim upon which relief can be granted. *Fritz v. Charter Tp. of Comstock*, 592 F.3d 718, 722 (6th Cir. 2010). “For purposes of a motion for judgment on the pleadings, all well-pleaded material allegations of the pleadings of the opposing party must be taken as true, and the motion may be granted only if the moving party is nevertheless clearly entitled to judgment.” *Id.* (quoting *JPMorgan Chase Bank, N.A. v. Winget*, 510 F.3d 577, 581 (6th Cir. 2007)).

Plaintiff is the former patient of Defendant Dr. Abubakar Atiq Durrani. Plaintiff’s claims were initially filed in the Hamilton County Court of Common Pleas on August 15, 2016. Plaintiff voluntarily dismissed her claims on December 11, 2017. Plaintiff filed her Complaint in this Court on December 4, 2018. (Doc. 1).

There is no dispute that Plaintiff's claims were filed within the time limits set forth in the applicable statute of limitations. Instead, Defendants maintain that Plaintiff's claims are barred by Ohio Revised Code § 2305.113, which is Ohio's statute of repose for medical malpractice actions.

In a case brought by different patients bringing the same claims against these same Defendants, this Court concluded that Ohio's savings statute, Ohio Revised Code § 2305.19(A), applied to save those plaintiffs' claims, which were otherwise barred by a medical malpractice statute of repose. *Atwood v. UC Health*, Case No. 1:16cv593, Doc. 568, PAGEID# 22840, 2018 WL 3956766, *8 (S.D. Ohio Aug. 17, 2018). Accordingly, because Plaintiff's claims were filed within the one-year period of time set forth in Ohio's savings statute, the Motion for Judgment on the Pleadings filed by Defendants, Durrani and CAST (Doc. 32) is **DENIED**.

IT IS SO ORDERED.

/s/ Michael R. Barrett
JUDGE MICHAEL R. BARRETT